

other side of the aisle as inconsequential, removes from the State nearly a quarter of a billion dollars. This 4.3 cents takes \$168 million out of the checking accounts of the working families and businesses in motor fuel. It takes \$28.5 million out of the State in new taxes for diesel fuel. It takes \$27.5 million out of the State in jet fuel. It takes it out of those local accounts and moves it to the Treasury for an expanding Federal Government.

It was wrong when it was imposed. It is a regressive tax, uniquely hard on the elderly and the poor. It was appropriated from users to expand Federal spending. It was not even used to make better highways and safer highways for the people who use them. It was used to expand Federal spending. It hurts the working family, it hurts the economy, and it raises costs of all goods, because energy is built into the cost of all goods.

So, Mr. President, as I said, the American family cannot keep their first check until May 8. Maybe we can save them a day and give them 1 more day's pay by getting this money back into their checking accounts where it belongs.

OBSERVANCE OF 1 MINUTE OF SILENCE

Mr. COVERDELL. Mr. President, on behalf of, I know, public officials throughout the country, but particularly those from Georgia where ValuJet is headquartered, I ask unanimous consent that the Senate fall into silence for 1 minute in acknowledgment of the deaths of the people from across our land as a result of this very tragic airplane crash in the Everglades coming out of Miami.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senate will observe 1 minute of silence in accordance with the wishes of the Senator from Georgia.

[A minute of silence was observed.]

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. As with all of these occurrences, you never really can appreciate the far reach that it has. My young press assistant's fiancée, in Atlanta, is an honor graduate at Emory University. Her grandparents were on the flight, on their way to attend her graduation. I am sure, of course, that story is repeated 109 times, multiplied to all the families of these 104 passengers and 5 crewmembers.

Atlanta is an airline town. Any time anything like this happens, it is a grief felt very widely throughout our city and State. I, on behalf of all in our State, extend our condolences to the families wherever they are that were affected by this tragic crash.

Mr. President, I ask unanimous consent that I be given up to 5 minutes to speak to an issue that has occurred on the borders between our country and Mexico with regard to drug smuggling.

The PRESIDING OFFICER. Without objection, it is so ordered.

DRUG SMUGGLING

Mr. COVERDELL. Mr. President, the Los Angeles Times ran an article today, May 13, 1996, and it is just a stunning article.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times, May 13, 1996]

DRUG RUNNERS ARRESTED AT BORDER OFTEN GO FREE

(By H.G. Reza)

SAN DIEGO.—During the federal government's yearlong narcotics crackdown along the Southwest border, hundreds of suspected smugglers have been allowed to go free after U.S. authorities arrested them with substantial quantities of drugs at ports of entry in California.

In the past year, about 2,300 suspected traffickers were taken into custody for bringing drugs across the border but, according to records and interviews, more than one in four were simply sent home to Mexico because of jail overcrowding and prosecutorial discretion.

Two suspects with 32 pounds of methamphetamine, and another with 37,000 Quaalude tablets, were simply "excluded" from the United States after their drugs and vehicles were confiscated.

The handling of drug cases at the border, most involving at least 50 pounds of marijuana, reflects shifting and sometimes conflicting pressures on the federal law enforcement community.

The threshold for prosecutions, drug agents say, has risen as the government has stepped up narcotics interdiction at border crossings and made more seizures. In addition, they say there often is no room for drug suspects at the federal jail here because it is overflowing with people awaiting trial on immigration law violations and other charges.

After a seizure of 158 pounds of cocaine, one defendant was cited and released because there was no room at the federal jail, said the woman's attorney. The charges against her were dropped, the attorney added.

Officials at the U.S. attorney's office confirm that under a program quietly adopted two years ago, an increasing number of suspected traffickers have been sent back to Mexico without arrest or prosecution in either federal or state court. Instead, they are prohibited from returning to this country pending an immigration hearing.

Government figures show that more than 1,000 smuggling suspects have been processed this way since 1994 after seizures by the U.S. Customs Service and the Border Patrol.

The number of such cases rose from 215 in 1994 to 636 last year at San Ysidro, Tecate and Otay Mesa. There were 288 cases in the first four months of 1996—and officials project that the total will reach more than 800 for the year.

"This is, in our opinion, a powerful prosecutorial tool," Assistant U.S. Atty. John Kramer said in an interview. "Immigration exclusion cases principally involve first-time offenders who face the sanction of losing permanent residency in the United States or their border crossing cards."

Justice Department and U.S. Customs Service officials have reported unprecedented drug seizures in the first year of Op-

eration Hard Line, an anti-drug program along the entire border with Mexico. Last year, they said, total drug seizures from vehicles, cargo containers and pedestrians at all ports were up 25% over the previous year.

"To the extent that drug seizures are up, there is perhaps the perception that we're not doing more in the prosecuting area [but] more felony cases have been filed than ever before," Kramer said.

The overall number of felony drug prosecutions originating from border arrests more than doubled in San Diego County, Kramer said, with almost two-thirds prosecuted in state court.

The government's "exclusion policy" has caused frustration among some Customs inspectors, who are making increasing numbers of seizures. After two Mexican women with 32 pounds of methamphetamine and 24 pounds of marijuana were sent back across the border, one inspector wrote in an Aug. 13, 1995, report:

"Lack of enforcement is not because inspectors aren't trying. It's because of the policy coming from upstairs."

Anyone caught smuggling drugs, even a single marijuana cigarette, can be charged with a felony offense, carrying a minimum of two years in prison, or a misdemeanor, carrying up to a year in jail.

But since the early 1990s, the U.S. attorney's office has struggled with its inability to prosecute all drug cases—especially marijuana cases—because of inadequate resources. Officials previously had set loose guidelines for deciding whether to seek misdemeanor or felony charges, depending on the amount of marijuana.

Now, officials say the U.S. Customs Service is operating under guidelines limiting any prosecution—including misdemeanors—to cases involving 125 pounds of marijuana or more.

And Mexican nationals who are first-time offenders usually are taken before an immigration judge and given the option of being excluded from the country, pending an immigration appeal, or of being prosecuted. So far, officials said, no one has chosen prosecution.

"Generally prosecution is deferred if the amount is below 125 pounds, or if the defendant is a Mexican citizen, or if in the opinion of the prosecutor, it's not a strong case," said Jeff Casey, Customs deputy special agent in charge in San Diego.

However, Kramer said, suspects who escape prosecution for their first seizure will automatically be charged if they are caught a second time, regardless of the drug type or quantity.

U.S. Customs Service records reviewed by The Times show that some smugglers have been caught two or more times—even in the same week—yet still were not jailed or prosecuted. In addition, no action was taken against a number of suspected smugglers captured with more than 125 pounds of marijuana.

One 58-year-old U.S. citizen, according to seizure records, was arrested three times this year at the border—in January with 53 pounds of marijuana, in February with 51 pounds and this month with 41 pounds. Although he had a criminal history that stretched back four decades and included an alien smuggling charge, he was not prosecuted for the first two seizures, according to a law enforcement source.

In one case that exceeded the threshold, records show that two U.S. citizens arrested Oct. 22, 1995, for smuggling 151 pounds of marijuana were not prosecuted. And neither was a 21-year-old U.S. citizen arrested March 16 with 386 pounds of marijuana who had been caught a week earlier with a smaller amount.